Scott. II-27—40,000—14-10-36.

EJP 12 (193 8) Department.

MS SERIES.

G.O. No. 748 P.H

DATED 24-2-38

[Despatch Abstract.]

licence - Kollegal Panchayat - Grant of licence to a Cinema Company - Papers recorded.

D. V. Reddiah
Member, Panchayat Board.
Kollegal
Coimbatore Dt.
14th Oct. 37.

SECRETARY TO GOVT. 14 DEC 1937 GENERAL DEPT.

15 DEC 1937 HOME DEPT.

Lt. Secy.
2 Conf. Nos.
14/12

Sir,

In August last the 'Crown Touring Talkies' applied to the President, Panchayat Board, Kollegal in the district of Coimbatore for a licence to run his cinema in Kollegal. The matter came up before the board at its meeting dated 30th Aug. 37 and it resolved with one voice that no such licence should be granted for the reasons shown therein. The president of the board was in the chair. He fell in with the board and entered no dissent. Subsequently within three or four days, he, as president, issued the very licence. This raises the very important issue whether the president can by an executi

executive order so counter to the duly passed resolution of the board. Under section 21 of the Local Boards Act 1920 the resolution shall be carried into effect by the president. The only way under the Act to cancel or modify the resolution is either to wait till the expiry of the statutory period of three months or to take action under rules 9 & 14 of Schedule II of the Act. No such action could be taken as the time limit stood in the way. There is therefore no escaping the fact that the president was bound to carry out the resolution by the board. His failure is actionable under section 41 of the Act. His going directly against the resolution without authority adds to the gravity of the default.

2. As the Cinema uses a dynamo a licence from the District Magistrate is necessary. He granted it. From the enclosure it will be seen that he did not respect the provisions in the matter of such licences.

3. The defaulting Pre-
sident, Panchayat Board,
Rollegal was taken to the notice
of the Collector in my letter dated
A
Ap 5-7 infra
the Sep. 37 Calling for necessary
action. Judged by events he
seems to have ignored it not
considering even to make an
answer to the reference. The
public also appear to have
sent a mahazar to him on
the same date praying for
Cancellation of the licence.

4. The licence under
reference was for one month. It
is said to have been renewed
for two months more. If it is
Conceded that in the particular
Circumstances of the case the licence
under reference was invalid
or improper it follows that its
Continuation is equally invalid.
as the applicant and the subject
matter of the licence are identical.

5. I am unable to
work with equanimity upon
such planting of the board's
Considered opinion by its

its executive and of such re-
regard of public opinion by the
president and the Collector. I
request that you may be graciously
to look into the matter and
protect the rights of the people
representatives against such
aggression.

Yours truly,
D. V. Reddi

To

The Hon'ble The Minister
for
Local Administration
Government of Madras,
Madras.

Enclosures: 2.

Copy of Letter from D. V. Rudrial, member, Panchayat Board, Kollegal to the Collector and District Magistrate Coimbatore dated 6 Sep. 1937.

The proprietor of the Crown Touring Talkies Company' No. II applied to the president, Panchayat Board, Kollegal for a license to exhibit his films in Kollegal. At its meeting dated 30th Aug. last the matter came up for the consideration of the board. The president occupied the chair. A resolution rejecting the application was passed without any dissent. The president by his act waived his right of disposing of the application in favor of the board.

2. On the 4th or 5th inst the president issued the license which the board refused four days back. There is thus a conflict between the board and its chief executive. No resolution of a local board can be modified or cancelled except as provided for in rules 9 to 11 - Schedule II of the Local Boards Act. Obviously no action contemplated by these rules was or could be taken as the interval of time between the resolution of the board and the executive order of its president falls short of the statutory limit. In the whole range

range of Local Boards Laws in Madras
There is no provision to enable the
President to over-ride by his executive
order a resolution of the board duly
passed in which he has acquiesced.
Under Sch. II. rule 2 business can be
transacted only at a meeting.

3. It will therefore, follow
that the resolution of the Board is good
at law. Under Sec. 21 of the Act "it shall
be carried into effect by the President".
Default on this respect makes the President
liable for action under Sec. 41. of the Act.
The ordering the president granting licence
in the foregoing circumstances is not
an order that can be said to be duly
passed or granted. It is liable for
Cancellation under Sec. 38 of the Act.

4. So much on the legal
aspect of the matter. Turning to the
facts of the application for licence
it will be found that in respect of situation
of the building it stands against Part III
of the revised rules under section 14 of
the Places of Public resort Act as
the Theosophical Society building
is almost contiguous with the proposed
structure and there are to the east
North and South residential quarters
within fifty yards. The green fence
around offering harbor to dangerous
reptiles makes the proposed place
unsafe in safety for the assembled
poublic. Even on merits the ap-
plication must fail.

5. This apart

16 / 7 / 15

a week since a Cinema show which operated here for three months Continuously left R.K.Nagal and the town and taluk is too poor to afford it any longer without detriment to the public and with any sense of security or immunity from petty Crimes.

6. I, therefore, request that in public interest the licence by the president may be cancelled upholding the resolution of the Board.

(Sd) D. V. Rudrial

Copy of my letter to the President, Panchayat Board R.K.Nagal dated 6th Sept: 37.

Copy of my minute of dissent at the meeting of the Panchayat Board R.K.Nagal dated 30th Aug. 37.

The Board has already passed orders in this matter at its meeting dated 30.8.37. It cannot be Cancelled or modified as suggested now. Further the Circumstances underlying the resolution have not changed either to justify action in Contravention thereof. In public interest the resolution should stand. The Collectors licence should not be construed to be a licence to break the law. It could not have been so intended. Besides the site selected by the applicant is surrounded by a fence & the reserve forming reptiles

tt

and as the show is to take place after sunset their presence cannot be noticed. There is therefore no safety for the people attending the show. This is a very material factor. Further the location of the tent comes within the prohibited distance from residential quarters.

I therefore oppose the granting any licence for the Cinema. The Collector may be informed accordingly.

(Sd) D V R..

D. V. Ramaswamy

Copy of my telegram to the District magistrate Coimbatore dated 6th September 1937

Kothagal - panchayat Board resolved 30th ultimo - rejecting licence cinemaa President issued licence yesterday. Public interest suffers - pray Cancel licence - manager follows.

(Sd) D. V. Ramaswamy.
Board Member.

1

E.P.H. Dept.

CN. 2487 47 from D.V. Rudrian, member Panchat Bd. Kollegal, D/14-X-37

91,
1/3/1

Licence - Kollegal Panchat - Grant of licence for a touring talkie

R. 11/2/38

Memo 24847 - 1 E.P.H. D/ 3 - 1 - 1938

Referred to the P. P. B. Kollegal for remarks. He is requested to submit his reply through the Chr. Why to D.M. - H?

D/ 8/2

To

P. P. B. Kollegal (with C.F. in original)

All talkies require licence under the Cinematograph Act from the D.M. & it is stated that the D.M. has granted licence for the talkies in question. It is also stated at A on p 3 c/f that representation have already been made to the Collector & that the Collector has not interfered in the matter

It requires licence under the P.P.R. each Bd has various one acquainted with its resolution by the Chairman.

~~2~~ 10

No reasons are given as to why the Collector has not taken any action in this case. It is also submitted that under Sec 12 of the P.P.R. Act, the D.M. is the authority empowered to ~~take~~ call for records & pass any orders he deems fit in respect of any proceedings taken under the Act. In these circumstances it is for consideration whether the draft on p 1 ante may issue

8)
21/12

The remarks of the P.P.S may be invited for

Submitted through the Coll:. Issue draft as revised.

Yes

4/15

C.F. 30.

Local Fund DEPARTMENT.

Cov. 351/37 J 3

COLLECTOR'S OFFICE
7 DEC 1938
COIMBATORE

Received ..... 19 . *Registered* 7.12.1938 19 .

Subject.

Grant of licence - The Crown Touring Talkies Cinema Company - Kollegal - remarks - submitted

ENCLOSURES.
No. 4
.....
Spare copies ..

Roc No. 8/KPB of 1938

Station Kollegal, *Dated the* 31.1.1938.

From (Name) M.R.Ry C.K. Nagaiah avl
(Designation) President Panchayath Board Kollegal

To The Secretary to the Government of Madras,

Through, Education and Public Health Department. Madras
Sir, The Collector of Coimbatore

Reference:- Government memorandum No. 24847-1-E-1 P.H. dated 3.1.1938 in the matter of the letter sent by Mr D.V. Rudrinh regarding grant of licence to the Crown Talkies Cinema Company. (Hereinto resubmitted).

Page

In reference to the matters alleged by Mr D.V. Rudrinh, I beg to state as follows:-

It is not correct to say that the matter of the licence to the proprietor of the Crown Touring Talkies came up before the Board at its meeting on 30th August 1937. The application by the proprietor

proprietor had not been considered by the President on 30.8.1937, the application having been presented only on 27.8.1937. The members of the Board acted beyond their statutory powers and in contravention of section 6(2) of the Local Boards act in taking cognizance of the said matter suo moto and without any notice to the members and without any appeal by any aggrieved party.

2. It is true that the President was present. Seeing the futility of his attempts at convincing the Board of the illegality of the procedure the President thought it better to leave matters pass especially as he believed that the members seemed to have been moved by personal grievances. At that stage, in the interests of other matters before the Board the President was forced to record the illegal and void resolution of the Board in the matter.

The said resolution not being in conformity with the rules and in passing the said resolution the Board having exercised functions expressly assigned by the Local Boards act to the President of the Board the said resolution could at best be deemed only to be a recommendatory nature. The Presidents had not passed any order under the Act on the application when the Proprietor repeated his request on 4.9.1937. Of course a copy of the resolution signed by the Vice President was sent to the Proprietor though it was not necessary. That seems to have been done

done with the intention of knowing if the proprietor could answer the grounds of objection of the members

4. It was under these circumstances that the President received a Communication from the Collector of Coimbatore informing the President that licence under the Cinematograph Act had been granted to the Proprietor from 4.9.1937.

5. Having personally heard the grievances of the said proprietor, the President thought it best to Consult the members of the Board informally about the matter. On 4.9.1937 eleven out of 15 members of the Board Consented to the grant of the licence. Though this informal Consultation is not required by the Statute, Considering the prior resolution as a recommendatory suggestion by the members the President followed said Course to see if the lapse of four days had effected any change in the opinion of the members. It was under these circumstances the President granted the licence. Subsequently on 20.9.37, the public of Kollegal presented a Mahazar to the President signifying their desire to have a permanent Cinema Company at Kollegal. The said mahazar bears the signatures of over 300 persons. On 23.9.1937 the opinion of the District Panchayat officer Erode was

was in the matter. Considering the modern tastes of the public the reasons urged by the members of the Board on 30.8.1937 are highly unsound. Thus on 26.9.1937 the licence was renewed for two more months. Even then 10 of the other 15 members of the Board have in writing agreed with the President.

6. The resolutions referred to in section 21 (1) of the Local Boards Act only refer to valid resolutions passed within the powers lawfully vested in the Board. It cannot by any stretch of imagination be deemed to denote that if the Board illegally exercises the functions of the President, the President is forbidden from exercising his statutory functions. The same explanation holds good for rule 9 of schedule II of the Local Boards Act. These cannot refer to resolutions ultra vires.

7. Section 41 of the Local Boards Act is not applicable to the facts of the case as the President has not failed to perform any duty imposed on him. The President believes that his refusal to grant a licence on no valid or satisfactory grounds could give rowm

for unpleasant litigations subjecting the applicant to unnecessary or wrongful loss.

8. From the above submissions it naturally follows that the Act of the President in the matter has been strictly within his statutory powers and that he has in this set matters at right avoiding useless litigations.

9. The allegations of the members, it is submitted are based on a wrong aspect of the facts of the case and of the functions to be lawfully exercised by the Board. As seen by the Mahazar of the public presented to the Presidents on 20.9.1937, refusal of licence would have been alr Act against the opinion of the public a portion of whom have elected the member in question.

Please vide — Pages 9 10 11-12 25 & 38 in Panchayat Board office file

10. For kind perusal of the Honourable Minister (and returns where no longer required) the file Current No. 174 & 274 this containing the said Mahazar & the written Consents of the majority of members on 4.9.1937 and 26-9-1937 the written opinion of the District Panchayats officer along with other Connected papers are herewith submitted.

I beg to remain
Sir
Your most obedient servant,

1.2.38

President Panchayat Board
Kollegal

31/1/38

C.F. 30.

DEPARTMENT.

Received 11 FEB 1938 19

Registered 6310 19

Subject.

Local Boards - Panchayat Board, Kollegal - Grant of licence for a cinema company.

ENCLOSURES.
No. Records
Spare copies

L.Dis. No351-M/38.

Station Coimbatore , *Dated the* 9th February 1938 19

From (Name) A.C.Woodhouse Esqr.,C.I.E.,
(Designation) Collector of Coimbatore.

To The Secretary to the Government of Madras,
Education and Public Health Department.
Madras.

Sir,

Government Memorandum No.2484-1-E-1 P.H. dated 3-1-1938.

The report, Roc.No.8/K.P.B/38 dated 31-1-38 of the President, Panchayat Board, Kollegal, is sent herewith. It explains how the resolution of the Panchayat Board, dated 30-8-1937 is not valid and binding the President. Under section 198(a) of the Madras Local Boards Act 1920, the authority to grant licences under the Places of Public Resort Act, is the President of the Panchayat in Panchayat areas. If any body was aggrieved by the President's order under this section, it was open to him to have appealed to the Panchayat under Section 198(b). The member, D.V.Rudriah,

has not chosen to do so. The allegations in paragraphs 2 and 3 of the petition that the Collector did not properly consider the provisions of the Act and the complaint against the President are unwarranted. When the President of the Panchayat brought to the notice of the District Magistrate, the resolution of the Panchayat, he was informed on 3-9-37 that the licence granted by the District Magistrate under the Cinematograph Act provided for the exhibition of films only after the licensee took out a licence under the Places of Public Resort Act from the Panchayat Board, and that the grant of a licence under the latter Act was within his powers and that he might either grant or refuse the licence. The member's complaint against the President seems to have been prompted by personal motives. There is nothing illegal in what the President has done.

6-2-38

for Collector.
~~for District Magistrate~~

G.10

Enc.

10/2

98/24/2

Date. Initials.

DRAFT FOR APPROVAL.

C.F. 16.

Pol. M. Dept

SUBJECT:—

Licence – Kollegal Panchayat. Grant of licence to a cinema Company – Papers recorded.

When received for fair copying ..		
When copied ..		
When examined ..		MS
When signed ..		
When despatched.		

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO*:—

No. _____ From the ~~KRR. D.V. Rudriah Rd Kembr Kollegal Pt. Bd No. Pt. 45~~, dated 14/10/1937.

" _____ " P. P. B. Kollegal " 8 & 38 & 31.1.1938.

" 6310 " Collector of Coimbatore " Lrs. 351-M/38 & 7.2.1938.

Order / Resolution — Ms. / Rout. No. 748 PH, dated 24-2-1938.

Should we not have authoritative opinion that the view of the Pdt. Pckt. Bd is legal and sound?

SRK
22/2.

By 2nd

Recorded

2. The Govt. see no reason to interfere in the matter.

SRK
22/2

SRK
24/2

21/24

21/2.

KRR – D.V. Rudriah Rd, Kembr, Kollegal Pt. Bd thro' the P. P. B. Kollegal.

The P. P. B. Kollegal thro' the P.D.B. Erode [with the Pt. Bd. file at (P)]

The ~~D.H.~~ Collector of Coimbatore

(A spare copy for the file)

Note: With reference to the Govt's query above, it is submitted that the Govt. have already held

Dpd. by _____ Recd. _____

Dpr.'s Init. _____

Dpd. _____

in G.O.s Nos. 1775 P.H. dt 30.9.36 & 136 PH dt 19.1.37, that the appellate authority under Sec. 10(3) of the P.P.R. Act can function only when an appeal is actually preferred to it under Sec. 10(1), by the applicant for licence. According to Sec. 198(a) of the M.L.B. Act the President, Pancht Board is the authority competent to grant or refuse a licence under the P.P.R. Act in a pancht area. The Pt. Bd. which is the appellate authority in such cases, can function only if an appeal is preferred to it against the orders of the President, by the applicant for the licence. The view of the P.P.B. in his letter on pp 11-16 cf. which is supported by the D.M. in his remarks on pp 16-17 cf. is therefore correct. The draft on p. 1 ante may in these circumstances be approved.

W

V

This ought to have been put up in the first instance.

22/2

Received . . . . . 1938. Registered . . . . . 1938.

Abstract.

Licence - Kollegal Panchayat - Grant of licence to a Cinema Company Papers - recorded -

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Education and Public Health Department.

G. O. No. 748 P.H., dated the 24th February 1938.

Read the following :-

From M.R.Ry. D.V.Rudriah Avargal, Member, Kollegal Panchayat Board, dated the 14th October 1937.

From the President, Panchayat Board, Kollegal, No.8/K.P.B. of 38 dated 31st January 1938.

From the Collector of Coimbatore, L.Dis.No.351/M/38, dated 9th February 1938.

****

O R D E R :-

Recorded.

2. The Government see no reason to interfere in the matter.

(By Order of His Excellency the Governor)

S. R. Kaiwar,
Under Secretary to Government.

To M.R.Ry. D.V. Rudriah Avargal, Member, Kollegal Panchayat Board, through the President, Panchayat Board, Kollegal.
To the President, Panchayat Board, Kollegal through the President, District Board, Erode.

To the Collector of Coimbatore.

****

F o r w a r d e d.
(By Order)

Superintendent.

8/c.